

The Honorable James L. Robart

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

**UNITED STATES OF AMERICA.**

**Plaintiff.**

V.

LEONTAI BERRY and  
SHANNON MCCALL.

## Defendants

CASE NO. CR19-230 JLR

**STIPULATED MOTION FOR  
AN ORDER ADDRESSING THE  
CONTINUANCE OF THE TRIAL**

Noted for Consideration on:  
April 22, 2020

On the afternoon of March 6, 2020, General Order 01-20 for the Western District of Washington was issued to address the impact regarding the spread of Coronavirus Disease 2019 (COVID-19) within the Western District of Washington. Among other things, the order continues civil and criminal matters including trials. That Order states that interim guidance from the Centers for Disease Control and Prevention (CDC) and the recommendations from the Departments of Public Health for Seattle and King county all suggest that individuals at higher risk – including individuals with underlying health conditions, individuals age 60 and older, and individuals who are pregnant – avoid large groups of people. As a result, and consistent with those recommendations that Order directs the continuance of court proceedings including trials.

1 Since the issuance of General Order 01-20, the President of the United States has  
 2 declared a public health emergency in response to the spread of COVID-19, and the  
 3 Governor of the State of Washington has issued a stay at home order. Further, the Centers  
 4 for Disease Control and other public health authorities, are recommending increasingly  
 5 stringent social distancing measures such as leaving at least six feet between people and  
 6 continuing to encourage any vulnerable individual to avoid public spaces.

7 In keeping with these recommendations on April 14, 2020, the Chief Judge signed  
 8 General Order No. 07-20. Among other things, this Order suspends all jury proceedings in  
 9 this District until July 1, 2020. As with the four earlier orders, this General Order is based  
 10 on the outbreak of Coronavirus Disease 2019 (COVID-19), throughout the United States  
 11 and, in particular, in the Western District of Washington and is directed at complying with  
 12 health directives aimed at stopping the spread of this virus.

13 Consistent with these health directives, even if jury service is a basis for requiring  
 14 people to leave their homes, the recommended social distancing measures would make it  
 15 extremely difficult, if not impossible, to select a jury and proceed with a trial while allowing  
 16 all participants to remain at the recommended distance six foot distance. Because of the  
 17 nature of the jury selection process, it would also be difficult to comply with the type of  
 18 cleaning protocols that would be required if jury selection were to take place. Moreover, the  
 19 Court is not equipped to provide the type of personal protective supplies that would be  
 20 necessary to ensure the health and safety of the Jurors, the defendant, the lawyers, the United  
 21 States Marshals, the court personnel, the public and the Court if normal procedures were  
 22 used.

23 Based on these facts, pursuant to 18 U.S.C. § 3161(h)(7)(A), we ask the court to find  
 24 that ends of justice served by continuing the trial in this case outweighs the best interest of  
 25 the public and the defendant to a speedy trial. Further, because it is as yet unclear when  
 26 proceeding with a trial would not place the health and safety of all participants at risk, we ask  
 27 the court to strike the trial date and set a status conference on or after July 1, 2020, when an  
 28 appropriate trial date can be established. We further request that the time from the date of

1 the entry of any order pursuant to this motion and the trial date established at the status  
2 conference be excluded from time period during which the case must proceed to trial under  
3 the Speedy Trial Act.

4 Undersigned counsel has conferred with Cathy Gormley, counsel for Leontai Berry,  
5 and Christopher Carney, counsel for Shannon McCall, and each has stipulated to this motion.  
6

7 Dated this 22nd day of April, 2020.  
8

9 Respectfully submitted,

10 BRIAN T. MORAN  
11 United States Attorney

12 /s/ Jessica M. Manca  
13 JESSICA M. MANCA  
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20 Approved via email:  
21

22 /s/ Cathy Gormley  
23 CATHY GORMLEY  
24 Counsel for Leontai Berry

25 /s/ Christopher Carney  
26 CHRISTOPHER CARNEY  
27 Counsel for Shannon McCall  
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1                   CERTIFICATE OF SERVICE

2                   On April 22, 2020, I electronically filed the foregoing document with the Clerk of the  
3 Court using the CM/ECF system, which will send notification of such filing to the case's  
4 CM/ECF participant(s).

5  
6                   Dated this 22nd day of April.

7                   \_\_\_\_\_  
8                   /s/ *Jessica M. Manca* \_\_\_\_\_  
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